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REPRESENTATION IN NEW ENGLAND LEGISLATURES.

Three clauses in the federal constitution raise to the dignity of national interest and importance anything affecting representation in the State legislatures. It is only persons duly qualified for electors of the more numerous branch of the legislature in each State who are, by virtue of that fact, entitled to vote in federal elections; it is the State legislatures that elect federal senators; and, again, it is these same assemblies that determine the method by which presidential electors shall be chosen. A comprehensive study of representation in all the State legislatures would throw light on important lines of our institutional development. Differences of political temper and habit would force themselves into view. The anomalous variety in the suffrage by which congress is elected, the striking differences among the bodies by which federal senators are chosen would stand revealed.

A study of so small and so homogeneous a group of States as New England must sacrifice much of this national interest which would attach to an investigation of the broader field. It may, however, retain a clearness of definition, together with a minuteness which would be quite impossible were it attempted to bring the forty-four State legislatures at once beneath the glass.

I. Who are represented? Or, rather, who may vote for members of the legislatures?

It is a conservative answer which New England gives to this question. In all six of the States there is unanimity in confining the suffrage for State representatives, and hence for congressmen, to males, at least twenty-one years of age, who are citizens of the United States by birth or by naturalization. There are excluded criminals, persons under

guardianship and paupers. Needy soldiers and sailors of the late war, however, are not disfranchised, and New Hampshire withholds the ballot from no man as a pauper unless he has received public relief within the ninety days immediately preceding the election; even he may vote if, before appearing at the polls, he tenders to the proper officer a return of the aid received.

Formal property qualifications for the legislative suffrage no longer exist in any of the New England States. Rhode Island swept away the last of these only seven years ago. The payment of a poll-tax as a pre-requisite for voting has also fallen into disfavor. In Massachusetts it has been abolished. In New Hampshire persons excused at their own request from the payment of their tax may not vote, unless they first make a tender of the amount of the tax—a provision which certainly does not discourage corruption at the polls.

As to residence qualifications Maine is most lenient, insisting only on a three months' previous residence in the town where the man wishes to vote. New Hampshire doubles this term. In addition to this six months of local residence all the other states insist on a longer term of probation within the commonwealth. Rhode Island is the most exacting in this respect; no man is qualified to vote for representative until he has breathed the air of Narragansett Bay for at least two years.

Of the four States in the Union which have adopted an educational qualification for the suffrage, three are in New England. In the middle of the century Massachusetts and Connecticut set a worthy example by requiring the candidate for registration to prove his ability to read the English language and to write his own name. Two years ago Maine adopted a similar qualification. Recent legislation has aimed to make this test more effective, and to prevent the possibility of collusion, but none of these states has yet added the Mississippi refinement of requiring the would-be

voter to interpret the constitution to the satisfaction of the registrar.

II. Who are the legislators?

Turning from the electors to the bodies which represent them, we find six bicameral legislatures, differing widely in relative numbers, in qualifications, in personnel and in the basis of representation on which they are chosen. In all but Massachusetts and Rhode Island the sessions are biennial, and in both of these conservative States constitutional amendments are now pending, abolishing the annual session in favor of the biennial.

The table on the next page presents some of the points of difference among the legislatures.

Large as is the immigrant population in some of the New England States, very few of alien birth have found their way into the legislatures. In almost every case at least three-fourths of the members are natives of the States where they now reside. In Maine, thirty-five per cent of the members in each house were born in the towns which they now represent.

Agriculture claims more of the members than any other calling, a fact which, together with a tender solicitude for the farmer's vote, explains much recent legislation. In New Hampshire it is reported that all matters pertaining to agriculture, before being voted upon in the legislature, received a preliminary consideration in a farmers' council, made up of the hundred farmers in both branches of the legislature. The large proportion of farmers in the Connecticut assembly is explained by the peculiar basis of representation to which that State still clings.

In Massachusetts and Rhode Island the mercantile and manufacturing interests have a considerable representation. The Massachusetts house is remarkable for quite an unusual number of journalists, and for the very large proportion of lawyers, one in every six.

In regard to the legislator's education the sources of infor-

NEW ENGLAND LEGISLATURES.

	Number of Members.	Compensation.†	Qualifications of Members.	POLITICS.			BIRTHPLACE.		OCCUPATION.				EDUCATION.			
				Republican.	Democratic.	Others.	Own State.	New England States.‡	Abroad.	Farmers.	Lawyers.	Merchants.	Manufacturers.	Academic.	College.	
{ Maine 661,086*	Senate,	31	\$150.	Age 25, 5 years citizen of U. S., 1 year resident in Me.	31	0	0	26	3	2	10	6	3	2	11	7
	House,	151	150.	5 years citizen of U. S.	146	5	0	147	2	2	46	14	17	8	39	15
{ New Hampshire, 376,530	Senate,	24	\$200.	Age 30, 7 years resident in N. H.	21	3	0	19	5	0	9	3	1	2	9	7
	House,	363	200.	2 years resident in N. H.	264	99	0	323	34	6	97	17	27	17	11	22
{ Vermont, 332,422	Senate,	30	\$3 a day.	Age 30, freeman of his Co.	30	0	0	26	3	1	10	7	1	3	18	8
	House,	241	3 a day.	2 years resident in Vt., 1 year resident in his town.	228	11	2‡	215	19	7	142	12	21	11	101	20
{ Massachusetts, 2,238,943	Senate,	40	\$750.	5 years resident in Mass., inhabitant of district.	36	4	0	30	10	0	1	10	11	3	5	16
	House,	240	750.	1 year resident in his district.	191	44	5‡	187	38	11	16	39	48	37	45	44
{ Rhode Island, 345,506	Senate,	37	\$1 a day.	Same as of electors.	35	2	0	27	8	2	10	4	5	6	9	5
	House,	72	1 a day.	Same as of electors.	69	3	0	42	20	8	8	6	19	19	20	12
{ Connecticut, 746,258	Senate,	24	\$300.	1 year resident in district.	23	1	0	21	3	0	5	3	2	8	11	
	House,	252	300.	1 year resident in town.	205	46	1	199	42	9	88	14	26	28		

* Population according to Census of 1890.
† Not including mileage.
‡ 1 Farmer's Labor. 1 Independent.
§ All fusion candidates. 2 Pro. R. 1 R. D. 1 D. R. 1 L. D.

§ New England States, together with New York, Michigan, Ohio and Pennsylvania.

¶ Statistics not obtainable.

mation are unofficial, and are both incomplete and inaccurate. There is some unanimity as to what constitutes a collegiate education, but "academic" is altogether too elastic a term. It is a valueless distinction to dignify the education received at an endowed school as "academic" in contrast with a "public school education," obtained in a high school of the same grade.

In all of the States it is considered an essential qualification that the member be an actual resident of the town or district which he represents; none but "the member from Pompey" can know the needs of Pompey well enough to participate intelligently in State legislation. In this respect Massachusetts at least has abandoned colonial precedents. In the early days men of Boston and Salem often used to stand for more remote constituencies. But to-day the requirement of local residence has found its way into most of the constitutions. Thus the New Hampshire representative who ceases to be "an inhabitant of the town, parish or place he may be chosen to represent," from that moment ceases *ipso facto* to be a member of the law-making body. Even in the absence of statutory requirement, custom insists rigidly on the legislator's residence within his constituency. Rhode Island, however, prohibits the division of any town or city into districts for the choice of representatives.

III. What is the basis of representation?

"*Vox Populi* may be *Vox Dei*," says Sir Henry Maine, "but very little attention shows that there never has been any agreement as to what *Vox* means or as to what *Populus* means. Is the voice of the people the voice which speaks through *scrutin d'arrondissement* or through *scrutin de liste*, by *plébiscite* or by tumultuary assembly?"

In New England how was *Vox Populi* to translate itself into *Vox Dei*? On one point our forefathers were agreed: it must be through representation. Was not that the very thing for which they had been fighting? Moreover, that representation ought so far as possible to be *equal*; so said

the constitutions. But in what does this equality consist? Does it require that the voice of the minority should be heard? This was answered unhesitatingly in the negative. Does equality mean the same number of representatives from each district, each town? Or, regardless of the boundaries of political units, does it mean one representative for a certain quota of inhabitants? or for a certain quota of voters? On these questions opinion was divided, and has so remained. Here are twelve legislative bodies. (*a.*) In five of the senates representation is by counties or by districts regardless of county lines. In all of these some attempt is made to proportion representation to population or to voting strength. Rhode Island is the only one of the six States that bases senatorial representation on the town, without regard to population. (*b.*) In two of the houses it is the towns as political units that are represented, each having the same number. (*c.*) In three, towns are represented, but with more or less elaborate and workable devices for securing a degree of proportionality to population. (*d.*) In one, representation is in proportion to the number of legal voters, towns as such having no minimum representation.

It was the organization of a New England legislature that in 1787 suggested the compromise whereby the interests of the large and small States were harmonized by the constitutional provision for a bicameral congress, each house resting on a different basis. In the New England assemblies to-day it is the rule that one chamber—now the house, now the senate—represents political units, while the other represents population. The only exception is in Massachusetts, where for both chambers the same basis of representation has been chosen, and carried out with the least practicable interference from town boundary lines. In both house and senate it is not towns or counties, not “inhabitants” or population, but legal voters that are represented. After each State census the commonwealth is divided into representative and senatorial districts, each of which shall contain as

nearly as possible the proper quota of legal voters. Towns or wards of cities may not be divided, but may be combined in making up a district. The representation which a county receives depends entirely upon its voting strength. There is no maximum or minimum fixed by law. Thus Suffolk county sends nine senators, while Barnstable, Dukes and Nantucket counties constitute the "Cape district," and send but one senator to Boston.

Maine, New Hampshire and Vermont, as well as Massachusetts, provide for periodic reapportionments of the senators among counties or districts conforming to county lines, in proportion to population. Vermont insists that each county must have at least one senator. The New Hampshire constitution, while declaring that the senatorial districts shall be as nearly equal as possible, directs the apportioners to "govern themselves in the proportion of the direct taxes paid by the said districts." Connecticut admits the principle of proportionality to population, but with so large a minimum guaranteed to each county as to make it practically inoperative. Since each of the eight must have at least two senators out of the twenty-four it results that Tolland county, made up of sparsely settled farming townships, with a total population of 25,081, has 8.3 per cent of the representation in the senate, although its population is only 3.3 per cent of that of the State, while New Haven county, containing 30 per cent of the population of the State, elects but 16.6 per cent of the senators; in other words, with a population nine times that of Tolland county, New Haven county can have only twice as many members in the upper house.

But in senatorial representation it is Rhode Island that does the greatest violence to the spirit of equality, while clinging to its letter. As in the federal senate, so here is found the same representation for each political unit, for each town, whatever its population. As a result in the Rhode Island senate Jamestown with 707 inhabitants stands

the proud peer of Providence with a population of 132,146. New York and Nevada are not more unequally mated at Washington.

In the lower houses the idea that each town should have at least one representative finds wider acceptance. Even in Massachusetts where representation is periodically reapportioned among districts according to voting population, custom with the force of law determines that there shall be rotation within the district so that each town shall have its turn in sending as representative one of its own residents once in every few years.

At each reapportionment in Maine one representative is given to each town, or district formed by the union of several small towns. In accordance with a complicated ratio of increase prescribed by the constitution additional representatives are apportioned among the larger towns. The representation advances, however, at a slower rate than the population, so that a town of 26,250 inhabitants has but seven representatives, and this is the maximum.

New Hampshire takes the people into her councils to the extent of giving one representative to every town or ward of a city having 600 inhabitants, making 1200 the "common difference" for each member added to the town's delegation. This gives the State, with a population one-sixth smaller than that of Boston, a house of representatives larger by over a hundred than that of any other State, larger by seven than the lower house in Congress!

Rhode Island safeguards the interests of the towns by giving to each at least one representative. As the membership of the house is limited to seventy-two, this leaves a margin of thirty-five members to be apportioned among the towns according to population, but no town or city may have more than twelve. Thus Providence can have but one-sixth of the house membership, although containing already nearly two-fifths of the entire population of the State.

Vermont is the only State to insist upon absolute equality of representation in the house for all political units. To each of her 243 towns is given the choice of one member. Burlington, with a population of 14,590, Rutland with 11,760, Somerset with 61, and Baltimore with 64 are all of the same height in the house. Two little towns are now without representation; party dissensions prevented an election.

In matters of constitutional law Connecticut delights in the antique. Retaining her old charter as the fundamental law for forty years after the separation from England, it was not until 1818 that she framed a constitution for herself. So far as representation was concerned its theory was, "the thing that hath been, it is that which shall be." The number of representatives from each town was forever to remain the same as at that date. Any new town that might be incorporated, however, was to receive but one, while the towns from which it was made were not to have their representative diminished without their own consent. An amendment added twenty years ago allows two members, the maximum representation, to any town of 5000 and over, even if it does not date from the most ancient times; but it guarantees to all other towns the representation which they then had. Two years later it was provided that thereafter a new town should be deemed to be merely an election district of the town from which the greater part of its territory is taken, until each should contain at least 2500 inhabitants.

In the face of most urgent and persistent agitation for representation based on *some* principle, and in utter disregard of the revolution which eighty years have made in the localization of her population, Connecticut still continues this Pickwickian "equality." Its equity may be seen by comparing the relative changes in the population of half a dozen towns during the decade preceding the last census:

	1880	1890
New Haven	62,882	86,045
Hartford	45,551	53,230
Bridgeport	29,148	48,866
Hartland	643	565
Killingworth	748	582
Union	539	431

To the general assembly each of these towns sends exactly the same number of members for the simple and sufficient reason that in the year 1818 each sent two. In New Haven the ratio of representation five years ago was 1:43.022 inhabitants. As her peer in the house stood Union with a ratio of 1:215. The three principal cities of the State, containing more than one-fourth of its entire population, more than one-third of its taxable wealth, elected *six* representatives out of 251. But even these figures do not give a full measure of the "equality" of Connecticut representation. The growth of cities in that State has been hardly more striking than the falling off in population in the old country towns. While conservatism, interested partisanship and the class feeling of the rural population resist all attempts to revise the antiquated constitution of 1818, natural causes are bringing the State government under a tyranny of "the deserted village" that becomes even more oppressive and odious. Pure-minded men of all parties deplore the prevalence of corruption among the voters of Connecticut. But it is not an independent phenomenon. The anomalous system of representation makes all "the external conditions for virtue" of the weakest. So long as the securing of a majority in a town of eighty and in a city of 20,000 voters brings the same political advantage, it need cause no surprise that elections in the country towns are close. It is here that the real campaign is fought. Moral suasion takes various forms. Matter-of-fact Rumor names \$14.00 as the regular price of votes in one of the aforesaid towns.

Were it possible to frame *de novo* a system of representation for the Connecticut of to-day, no one would dream of

allowing any group of 500 inhabitants to send two delegates to the general assembly. But so firm is the alliance between the interests of party and of the country towns, jealous of their ancestral representation, that the champions of reform dare advocate nothing so radical as the diminishing of any town's present quota. It is palliatives, new patches upon old garments, that they urge. There is now pending in the Connecticut house a bill introduced by a New Haven member, which provides that "each town of 15,000 shall be entitled to three representatives and another representative for each 5000 additional population." Were it possible for this bill to pass it would introduce some elasticity into the system; for example, it would raise the representation of New Haven from two to twenty, and make provision for the future expansion of cities. But such a measure would make the legislative body bunglingly large; its immediate effect would be to raise the membership to 300, and a decade or two would make the house more unwieldy than that of New Hampshire. Moreover this bill does not touch one fundamental injustice: while it makes the city ratio of representation 1 : 5,000 it leaves to the ghosts of ancient towns so preposterous a ratio as 1 : 200.

IV. To what extent does each State's system of representation make the political complexion of the legislature vary from that of the body of the voters?

State parties are practically unknown. For reasons too familiar to need enumeration here, nine voters out of ten in a State election cast their ballots in unquestioning allegiance to parties based on tariff and currency issues. However scholars may criticise such political action as unreasoning and disastrous to the best interests of State government, it is hard to deny the justice of the voters' claim that the representative body should reflect their expressed will, with the least possible distortion from the media through which it passes. That there must be a certain "tolerance," no one will deny. To what extent the actual divergence is due to

district voting, is a question that cannot be answered with exactness. Statistics giving the total vote for all candidates of the several parties are obtainable from only a few of the States. Something of an approximation may be reached by comparing party strength as found in the legislative bodies, and as expressed in the votes for the governors chosen at the same elections. It must of course be borne in mind that the State elections last November were by no means typical; that an individual candidate, whether for governor or for law-maker, may run far ahead of, or behind his ticket; and that the minor political parties put forward no candidates for the general assembly in many constituencies where their gubernatorial candidates polled considerable votes. But after every allowance of this kind has been made the results of the comparison are striking.

State.	Party.	Percentage of Vote for Governor.	Percentage in Senate.	Percentage in House.
Maine.	Republican .	64.3	100.	96.7
	Democrat . .	28.3	0	3.3
	Prohibition .	2.5	0	0
	People's . . .	4.9	0	0
New Hampshire.	Republican .	56.0	87.5	72.7
	Democrat . .	40.9	12.5	27.3
	Prohibition .	2.1	0	0
Vermont.	Republican .	73.5	100.	94.6
	Democrat . .	24.4	0	4.6
	People's . . .	1.3	0	0.4
	Prohibition .	0.8	0	0.4
Massa- chusetts.	Republican .	56.5	90.	81.3
	Democrat . .	36.9	10.	18.7
	People's . . .	2.7	0	0*
	Prohibition .	3.0	0	0
	Labor	0.9	0	0
Rhode Island.	Republican .	53.1	94.6	95.8
	Democrat . .	41.3	5.4	4.2
	Prohibition .	4.1	0	0
	Labor	1.1	0	0
Connecticut.	Republican .	53.5	91.7	81.3
	Democrat . .	43.3	8.3	18.3
	Prohibition .	1.5	0	0
	People's . . .	1.3	0	0.4

* No candidate was elected by a minor party unaided. Fusion candidates are here credited to the major party by whose aid they were elected.

V. To what extent do the representative systems limit the political influence of cities?

In the discussions which arose over the work of the recent constitutional convention in New York, the impression seemed to be prevalent that such a restriction as that which prevents the election of more than one-half of the legislature by the two cities of New York and Brooklyn was something without precedent. Yet such is by no means the case. In all of the New England States but two, Massachusetts and New Hampshire, the constitutions fix some maximum of representation in one house or the other which puts a sharp limit on the political power of any city. The absolutely equal representation for each town in the Vermont house and in the Rhode Island senate of course has this effect. In Connecticut the equally fossilized but less symmetrical system of town representation in the lower chamber, limits to two the number of members from any city, no matter how large it may become; in the upper chamber, also, the giving of a large minimum representation to each county, cuts down the margin to such an extent that no county containing a large city can be represented in proportion to its population. In the Maine house no town may have more than seven members; in Rhode Island the limit is fixed at twelve. In Maine and Vermont, where the population is mostly rural, and changes but slowly,—Vermont's population gained but one-half of one per cent during the last census decade,—this restriction does not make itself very oppressive. But in the legislatures of both Rhode Island and Connecticut, such narrow limits are placed upon city representation as to work gross injustice to that part of the population which is steadily and rapidly on the increase. To-day more than half of the inhabitants of Connecticut live in cities of 15,000 and over, yet these elect less than one-tenth of the members in the so-called "popular" chamber.

Such facts as the foregoing would seem to show that even in one of the oldest and most homogeneous sections of the

country the federal suffrage is conferred on very different terms; that the assemblies which elect federal senators differ widely in size, in personnel and in the basis upon which they are elected; and that, although equal representation is the ideal set up by the constitutions, there is utter disagreement as to what constitutes equality of representation, while in their attempts to realize it most of the States, by clinging to its letter, have sacrificed its spirit.

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